

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No. 2013-22992
Issue No. 1038
Case No. [REDACTED]
Hearing Date: May 9, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon Claimant's request for a hearing made pursuant to MCL 400.9 and MCL 400.37, which govern the administrative hearing and appeal process. After due notice, a telephone hearing was held on May 9, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], a member of Claimant's Family Independence Program (FIP) group. Participants on behalf of Department of Human Services (Department) included [REDACTED], FIS.

ISSUE

Whether the Department properly closed Claimant's FIP case due to Claimant's group member's failure to participate in employment-related activities without good cause.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing recipient of FIP, and was required to participate in employment-related activities.
2. On September 29, 2012, the Department sent Claimant a Notice of Noncompliance informing Claimant of a failure to participate in employment-related activities by failing to complete FAST, and setting a triage date of October 5, 2012.
3. At the hearing, the Department did not present into evidence a notice informing Claimant's group member to complete FAST and the date and time for his taking FAST.

4. Claimant's group member attempted to contact Claimant's worker by phone to tell her that he had completed FAST, but he was placed on hold and disconnected. Claimant's group member also placed additional calls to the worker, with no return call being made to him.
5. On September 29, 2012, the Department sent Claimant a Notice of Case Action closing Claimant's FIP, effective November 1, 2012, due to a group member failing to participate in employment-related activities without good cause.
6. On December 28, 2012, Claimant filed a hearing request disputing the Department's action.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Department requires Work Eligible Individuals (WEI) seeking FIP to participate in employment and self-sufficiency-related activities. BEM 233A. Failing, without good cause, to participate in employment or self-sufficiency-related activities results in the WEI being penalized. *Id.* Good cause is a valid reason for noncompliance that is based on factors that are beyond the control of the noncompliant person. *Id.*

In the present case, on September 29, 2012, the Department sent Claimant a Notice of Noncompliance informing Claimant of a member of her group's failure to participate in employment-related activities by failing to complete FAST, and setting a triage date of October 5, 2012. At the hearing, the Department did not present into evidence a notice informing Claimant's group member to complete FAST and the date and time for his taking FAST. Claimant's group member testified credibly at the hearing that he attempted to contact Claimant's worker by phone to tell her that he had completed FAST, but he was placed on hold and disconnected. Claimant's group member stated that he also placed additional calls to the worker, with no return call being made to him. On September 29, 2012, the Department sent Claimant a Notice of Case Action closing

Claimant's FIP, effective November 1, 2012, due to a group member failing to participate in employment-related activities without good cause.

I am convinced that Claimant's group member followed the directions in the Notice of Noncompliance and attempted to contact Claimant's Department worker to prevent closure of Claimant's FIP case. Also, the Department is required to hold a triage to determine good cause, per BEM 233A. I am not convinced that the Department held a triage as required by policy, as there was no documentation or testimony to support that a triage was held. In addition, without the FAST notice to review, this Administrative Law Judge could not question Claimant regarding his taking the alleged FAST on a particular date. I therefore conclude from Claimant's group member's credible testimony that he completed FAST and participated in work-related activities.

Based on the above discussion, I find that Claimant's group member participated in employment-related activities, and therefore the Department was not correct in closing Claimant's FIP case.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly closed Claimant's FIP case. improperly closed Claimant's FIP case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly. did not act properly.

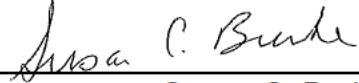
Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT SHALL INITIATE WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER, THE FOLLOWING:

1. Remove the sanction from Claimant's case.
2. Initiate reinstatement of Claimant's FIP case, effective November 1, 2012, if Claimant is otherwise eligible for FIP.

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3. Issue FIP supplements for any payment Claimant was entitled to receive but did not, in accordance with Department policy.



Susan C. Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 14, 2013

Date Mailed: May 14, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

SCB/tm

cc:

